

SERVICE DATE - JULY 12, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 580X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN MUHLENBERG
AND MCLEAN COUNTIES, KY

Decided: July 11, 2001

On December 22, 2000, a decision and notice of interim trail use or abandonment (NITU) was served, authorizing a 180-day period for the Counties of McLean and Muhlenberg, KY, and the City of Island, KY (collectively, McLean County) to negotiate an interim trail use/rail banking agreement with CSX Transportation, Inc. (CSXT) for a 7.48-mile portion of its rail line in the Midwest Region, known as its Nashville Division, O&N Nashville Subdivision, extending from milepost 00D-186.35 near Moorman in Muhlenberg County, KY, to milepost 00D-193.83 near Livermore in McLean County, KY.¹ The 180-day period under the NITU expired on June 20, 2001.²

On June 29, 2001, CSXT filed a request to extend the NITU negotiation period for an additional 90 days. CSXT states that it has, in fact, engaged in negotiations with McLean County for trail use, but indicates that the parties have been unable to finalize negotiations within the 180-day period. CSXT contends that the 90-day extension is needed to complete negotiations with McLean County.

Even if the negotiation period has expired, when a carrier consents to continue negotiations and has not consummated abandonment of the line at the end of the previously imposed period, as is the case here, the Board continues to have jurisdiction to grant an extension. Because an extension of the negotiation period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d), the request will be granted. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990). Accordingly, the NITU negotiation period will be extended until September 18, 2001.

This decision will not significantly affect either the quality of the human environment or

¹ Notice of the exemption was served and published in the Federal Register on September 25, 2000 (65 FR 57651).

² The December 22 decision also imposed a 180-day public use condition which is scheduled to expire on July 20, 2001. The fact that the public use condition remains in effect is added support for granting the relief sought.

the conservation of energy resources.

It is ordered:

1. CSXT's request to extend the NITU negotiation period is granted.
2. The NITU negotiation period is extended until September 18, 2001.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary